IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

MFA.No. 1109 of 2001(C)

OP(MV).1144/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOZHIKODE

.....

APPELLANT: PETITIONER

GEETHA, W/O. VIKRAMAN V.C.,
CHEMPAKKOTTE HOUSE,
P.O.MUKKAM, KOZHIKODE DISTRICT.

BY ADV. SRI.N.JAMES KOSHY

RESPONDENTS: RESPONDENTS
----

1. **K.T.SULAIMAN, S/O.IMBICHIMOIDEEN,**
   KALLUTHODIKAYIL HOUSE,
   KUNNAMANGALAM, CALICUT,
   (R.C. OWNER OF BUS KRZ 5045)

2. **K.T.RASAK, S/O. SULAIMAN,**
   AGED 27/93 KALLUTHODIKAYIL HOUSE,
   KUNNAMANGALAM (DRIVER KRZ 5045),
   D.L. NO.190/P9/89-90 BADGE 1691/91/KKD.

3. **UNITED INDIA INSURANCE CO.LTD.,**
   BRANCH OFFICE, WESTERN COMPLEX,
   P.B. NO.192,
   MAVOOR ROAD, CALICUT (POLICY NO.100309/010/031/
   40/9050, CERTIFICATE NO.40/10041).

BY ADV. SRI.SIBY MATHEW - R3
SRI.PHILIP J.VETTICKATTU

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 04/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.T.SANKARAN, JJ.

M.F.A.No.1109 OF 2001

Dated 4th December, 2007

JUDGMENT

Koshy,J.

Appellant/claimant met with a motor accident as a result of which she sustained serious injuries. Only Rs.20,950/= was awarded by the Tribunal against a claim for Rs.1,50,000/=. Only quantum of compensation is disputed in this appeal. She was admitted in the Medical College Hospital, Calicut on 28.10.1993. Ext.A2 is the wound certificate. Ext.A3 certificate shows that she had comminuted fracture shaft of right humerus. Ext.A4 shows that she was admitted to Nirmala Hospital, Calicut on 2.1.1994 for delivery. It shows that she had undergone caesarian operation. It is proved by evidence that she was pregnant for seven months at the time of accident. Her first delivery was normal, but, in view of the accident second child was taken only through caesarian. No medical certificates were produced to show that it was due to the accident. According to the appellant, she was a Lecturer in a tutorial college. She passed M.A Degree and she was aged 28 at the time of the accident. It is also submitted that she lost her job because of the accident due to consequent absence. She was unable to write properly because of the injury to the hand. No amount was awarded for disability and loss of earning power. We are of the view that for loss of

amenities, discomfort and disability due to accidental injuries and loss of earning power she ought to have been granted Rs.7,500/= by the Tribunal against a claim of Rs.50,000/= each for disability and loss of earning power. The above Rs.7,500/= should be deposited by the third respondent insurance company, over and above the decreed amount by the Tribunal, with 7.5% interest from the date of application till the date of deposit. On deposit of the amount, appellant is allowed to withdraw the same.

The appeal is partly allowed.

J.B.KOSHY
JUDGE

K.T.SANKARAN
JUDGE

tks